IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4566 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANJULABEN ARKHAJI NATHAJI THAKARDA

Versus

STATE OF GUJART

Appearance:

MR BIPIN P JASANI for the Petitioners-absent.
Mr. L.B.Dabhi, ASSISTANT GOVERNMENT PLEADER
for Respondents No. 1-4
MR PD PATEL for Respondent No. 5-absent.
MR AM PAREKH for Respondents No. 6-14

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 26/02/2002

ORAL JUDGEMENT

The land which was the subject

matter of Special Civil Application no.1442 of 2001 is the same land which was auctioned by the Gram Panchayat. Special Civil Application no.1442 of 2001 has been disposed of today. In the present petition, nobody appears on behalf of the petitioners.

2. Heard the learned advocate Mr. Parekh for respondent nos. 6 to 14 and learned AGP Mr. Dabhi for respondent nos. 1 to 4. In this petition, the auction held by the Panchayat on 11.8.1995 to 10 persons has been challenged in this petition. It is stated that the land in question was auctioned by the Gram Panchayat to 10 persons including respondent nos. 6 to 14. The petitioners of this petition made an application before the Deputy Collector that the auction held by the Gram Panchayat is isllegal and not in accordance with the provisions of the Gujarat Panchayats Act and Rules. That application made by the petitioner made a prayer that the petitioners be allotted some part of that land. That application was rejected by the Deputy Collector by his order dated 2.9.1996. Thereafter, the petitioners preferred an appeal before the Collector and that has also been rejected vide order dated 13.4.1998. The petitioners thereafter filed a Revision Application before the State Government and the State Government has also rejected the same on 4.12.1999 and those orders are under challenge in this petition. This petition is for a direction to the Development Commissioner to hold an inquiry by deputing an independent Gazetted class-I officer and pass appropriate order to hold a fresh procedure of auction by giving wide publicity by way of issuing public advertisements in leading daily newspapers.

3. Affidavit-in-reply has been filed in this petition by the Collector wherein it is stated that by resolution no. 4 dated 7.3.1995, the Gram Panchayat recommended to give the plot of disputed land to Taluka Development Officer, Idar. The Taluka Development Officer decided to dispose of the land by holding an auction. The petitiioners approached the Deputy Collector under section 202 of the Bombay Land Revenue Code. The Deputy Collector rejected the application of the petitioners vide his order dated 2.9.1996 against which the petitioners approached the Collector. The Collector also rejected the same vide his order dated 13.4.1998. Thereafter, the petitioners approached the Additional Chief Secretary, Revenue Department under section 211 of the Bombay Land Revenue Code by filing a Revision Application and that application has also been rejected. The petitioners had made another attempt for

allotment of plots before the Collector. That demand has been made subsequently in this petition. The petitioners belong to Baxi Panch. If they are entitled as per rules of the Government, the petitioners should have applied before T.D.O. who is a competent authority to allot the plot of land of Gamtal. The petitioners ought to have participated in the general auction and they have not made any prayer to participate in the auction proceedings. Hence, this petition requires to be rejected. The order dated 2.9.1996 of the Deputy Collector and the order passed by the Additional Chief Secretary, Revenue Department clearly show that appopriate opportunity of hearing was given to the petitioner. Thereafter, the applications of the petitioners were decided by appropriate authorities. Though the petitioners filed a Review petition, the petitioners have no right for such review. The notification was issued. It was published on 3.7.1995 by the Talati cum Mantri and the Panchnama was prepared to that effect. The auction proceedings have been made by the representative of the T.D.O. on 11.8.1995. The petitioners have never made any attempt to prove that nine persons are related to Sarpanch and as no evidence has been produced to show that the statements made before the authority were incorrect and it does not appear that the petitioners have made demand for allotment of the land before the authority concerned. The notification has wide publication and the petitioners could have taken part in the auction proceedings. There were 11 plots to be auctioned in the Gamtal. There were encroachments over plot nos. 2 and 3. NIne plots were auctioned. Resolution no.4 dated 7.4.1995 was forwarded to the T.D.O. and the T.D.O. published the notification. The plots have been allotted after following the prescribed procedure established by law in the auction proceedings and that allotment of plot has been approved by the Deputy Collector and the Chief Secretary, Revenue Department. Therefore, this petition deserves to be dismissed.

4. I have carefully considered the contentions of the learned counsel for the respondents and perused the relevant papers. The only challenge is that the petitioners made a demand for allotment of certain plots which have already been auctioned to 10 persons. The petitioners have not participated in the auction proceedings. The auction proceedings cannot be held illegal at this stage on the allegation that certain procedure has not been adopted by the authorities to auction the plots. I do not find any illegality or irregularity committed during the auction proceedings.

Even if some irregularity has been committed by the officer concerned in the auction, but that auction has already been approved by the Deputy Collector and Additional Chief Secretary and those authorities are competent authorities having jurisdiction to act in accordance with the provisions of law and that has been done. I do not find any good reason to interfere with the concurrent findings of the authorities below. As such, this petition deserves to be dismissed. Accordingly, this petition is dismissed. Rule is discharged with no order as to costs. Interim relief, if any, stands vacated.

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